

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

ALEX HAMILTON,

Plaintiff,

v.

**CIVIL ACTION NO.: 3:16-CV-116
(GROH)**

**STATE OF WEST VIRGINIA;
WEST VIRGINIA DIVISION OF CORRECTIONS;
SALEM CORRECTIONAL CENTER;
ALL OFFICERS NAMED AND UNNAMED;
JASON KUHN, Captain of Security,
Salem Correctional Center; WARDEN JOHNS,
Warden, Salem Correctional Center;
COI SNYDER, Correctional Officer I,
Salem Correctional Center; MR. WESTFALL,
Assistant Warden, Salem Correctional Center;
MR. PETERS A.W.S, Assistant Warden Security,
Salem Correctional Center; JIM RUBENSTEIN,
Commissioner of Corrections,**

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

This matter is before the Court for consideration of a Report and Recommendation ("R&R") issued by United States Magistrate Judge James E. Seibert. Pursuant to this Court's Local Rules, this action was referred to Magistrate Judge Seibert for submission of an R&R. On February 2, 2017, Magistrate Judge Seibert issued his R&R, recommending that this Court grant Defendant Snyder's motion to dismiss [ECF No. 29], grant Defendant Kuhn's joinder and motion to dismiss [ECF No. 37], grant the remaining


Defendants' motion to dismiss [ECF No. 41] and deny and dismiss with prejudice the Plaintiff's complaint [ECF No. 1].

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, this Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge to which no objections are made. Thomas v. Arn, 474 U.S. 140, 150 (1985). Failure to timely file objections constitutes a waiver of *de novo* review and a plaintiff's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1)(C); Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984). In this case, pursuant to 28 U.S.C. § 636(b)(1)(C) and Rule 72(b) of the Federal Rules of Civil Procedure, objections to Magistrate Judge Seibert's R&R were due within fourteen days after being served with a copy of the same. The Plaintiff was served with the R&R on February 6, 2017. To date, neither party has filed objections. Accordingly, the Court will review the R&R for clear error.

Upon careful review, and finding no error, the Court **ORDERS** that Magistrate Judge Seibert's Report and Recommendation [ECF No. 63] should be, and is, hereby **ADOPTED** for the reasons more fully stated therein. Accordingly, the Defendants' Motions to Dismiss [ECF Nos. 29, 37, 41] are **GRANTED** and the Plaintiff's complaint [ECF No. 1] is **DENIED** and **DISMISSED WITH PREJUDICE**.

The Court **DIRECTS** the Clerk to enter judgment in favor of the Defendants, close this matter and strike it from this Court's active docket, and transmit copies of this Order to all counsel of record and the *pro se* Plaintiff.

DATED: March 7, 2017


GINA M. GROH
CHIEF UNITED STATES DISTRICT JUDGE